

[COMMITTEE PRINT]

May 17, 2004

[Showing H.R. 3755, As Adopted by the Subcommittee on
Housing and Community Opportunity]

108TH CONGRESS
2D SESSION

H. R. 3755

To authorize the Secretary of Housing and Urban Development to insure
zero-downpayment mortgages for one-unit residences.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 2004

Mr. TIBERI (for himself, Mr. SCOTT of Georgia, Mr. OXLEY, Mr. NEY, Mr. TURNER of Ohio, Mr. GREEN of Wisconsin, Mr. KING of New York, Mr. RENZI, Mr. LUCAS of Kentucky, and Mr. CLAY) introduced the following bill; which was referred to the Committee on Financial Services

[Strike out all after the enacting clause and insert in lieu thereof the part printed in roman]

[For text of introduced bill, see copy of bill as introduced on February 3, 2004]

A BILL

To authorize the Secretary of Housing and Urban Development to insure zero-downpayment mortgages for one-unit residences.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*



1 **SECTION. 1. SHORT TITLE.**

2 This Act may be cited as the “Zero Downpayment
3 Act of 2004”.

4 **SEC. 2. INSURANCE FOR ZERO-DOWNPAYMENT MORT-**
5 **GAGES.**

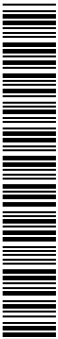
6 (a) MORTGAGE INSURANCE AUTHORITY.—Section
7 203 of the National Housing Act (12 U.S.C. 1709) is
8 amended by inserting after subsection (k) the following
9 new subsection:

10 “(l) ZERO-DOWNPAYMENT MORTGAGES.—

11 “(1) INSURANCE AUTHORITY.—The Secretary
12 may insure, and commit to insure, under this sub-
13 section any mortgage that meets the requirements of
14 this subsection and, except as otherwise specifically
15 provided in this subsection, of subsection (b).

16 “(2) ELIGIBLE SINGLE FAMILY PROPERTY.—To
17 be eligible for insurance under this subsection, a
18 mortgage shall involve a property upon which there
19 is located a dwelling that is designed principally for
20 a 1- to 4-family residence and that, notwithstanding
21 subsection (g), is to be occupied by the mortgagor
22 as his or her principal residence, which shall
23 include—

24 “(A) a 1-family dwelling unit in a multi-
25 family project and an undivided interest in the



1 common areas and facilities which serve the
2 project;

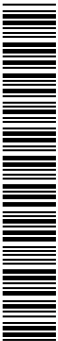
3 “(B) a 1-family dwelling unit of a coopera-
4 tive housing corporation the permanent occu-
5 pancy of the dwelling units of which is re-
6 stricted to members of such corporation and in
7 which the purchase of such stock or member-
8 ship entitles the purchaser to the permanent oc-
9 cupancy of such dwelling unit; and

10 “(C) a manufactured home, and a manu-
11 factured home together with a suitably devel-
12 oped lot on which to place the manufactured
13 home.

14 “(3) MAXIMUM PRINCIPAL OBLIGATION.—

15 “(A) LIMITATION.—To be eligible for in-
16 surance under this subsection, a mortgage shall
17 involve a principal obligation in an amount not
18 in excess of 100 percent of the appraised value
19 of the property plus any initial service charges,
20 appraisal, inspection and other fees in connec-
21 tion with the mortgage as approved by the Sec-
22 retary.

23 “(B) INAPPLICABILITY OF OTHER LOAN-
24 TO-VALUE REQUIREMENTS.—A mortgage in-
25 sured under this subsection shall not be subject



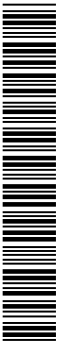
1 to subparagraph (B) of paragraph (2) of sub-
2 section (b) or to the matter in such paragraph
3 that follows such subparagraph.

4 “(4) ELIGIBLE MORTGAGORS.—The mortgagor
5 under a mortgage insured under this subsection
6 shall meet the following requirements:

7 “(A) FIRST-TIME HOMEBUYER.—The
8 mortgagor shall be a first-time homebuyer. The
9 program for mortgage insurance under this
10 subsection shall be considered a Federal pro-
11 gram to assist first-time homebuyers for pur-
12 poses of section 956 of the Cranston-Gonzalez
13 National Affordable Housing Act (42 U.S.C.
14 12713).

15 “(B) COUNSELING.—

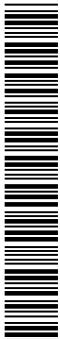
16 “(i) REQUIREMENT.—The mortgagor
17 shall have received counseling, by a third
18 party (other than the mortgagee or any
19 party related directly or indirectly to the
20 mortgagee) who is approved by the Sec-
21 retary, with respect to the responsibilities
22 and financial management involved in
23 homeownership.



1 “(ii) TOPICS.—Such counseling shall
2 include providing to, and discussing with,
3 the mortgagor—

4 “(I) information regarding home-
5 ownership options other than a mort-
6 gage insured under this subsection,
7 other zero- or low-downpayment mort-
8 gage options that are or may become
9 available to the mortgagor, the finan-
10 cial implications of entering into a
11 mortgage (including a mortgage in-
12 sured under this subsection), and any
13 other information that the Secretary
14 may require; and

15 “(II) a document that sets forth
16 the amount and the percentage by
17 which the property subject to the
18 mortgage must appreciate for the
19 mortgagor to recover the principal
20 amount of the mortgage, the costs fi-
21 nanced under the mortgage, and the
22 estimated costs involved in selling the
23 property, if the mortgagor were to sell
24 the property on each of the second,



1 fifth, and tenth anniversaries of the
2 mortgage.

3 “(iii) 2- TO 4-FAMILY RESIDENCES.—

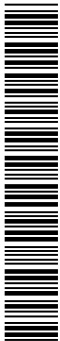
4 In the case of a mortgage involving a 2- to
5 4-family residence, such counseling shall
6 include (in addition to the information re-
7 quired under clause (ii)) information re-
8 garding the rights and obligations of land-
9 lords and tenants.

10 “(5) OPTION FOR NOTICE OF FORECLOSURE
11 PREVENTION COUNSELING AVAILABILITY.—

12 “(A) OPTION.—To be eligible for insurance
13 under this section, the mortgagee shall provide
14 mortgagor, at the time of the execution of the
15 mortgage, an optional written agreement which,
16 if signed by the mortgagor, allows, but does not
17 require, the mortgagee to provide notice de-
18 scribed in subparagraph (B) to a housing coun-
19 seling entity that has agreed to provide the no-
20 tice and counseling required under subpara-
21 graph (C) and is approved by the Secretary.

22 “(B) NOTICE TO COUNSELING AGENCY.—

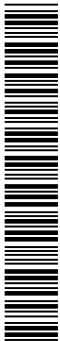
23 The notice described in this subparagraph, with
24 respect to a mortgage, is notice, provided at the
25 earliest time practicable after the mortgagor be-



1 comes 60 days delinquent with respect to any
2 payment due under the mortgage, that the
3 mortgagor is so delinquent and of how to con-
4 tact the mortgagor. Such notice may only be
5 provided once with respect to each delinquency
6 period for a mortgage.

7 “(C) NOTICE TO MORTGAGOR.—Upon no-
8 tice from a mortgagee that a mortgagor is 60
9 days delinquent with respect to payments due
10 under the mortgage, the housing counseling en-
11 tity shall immediately notify the mortgagor of
12 such delinquency, that the entity makes avail-
13 able foreclosure prevention counseling that may
14 assist the mortgagor in resolving the delin-
15 quency, and of how to contact the entity to ar-
16 range for such counseling.

17 “(D) ABILITY TO CURE.—Failure to pro-
18 vide the optional written agreement required
19 under subparagraph (A) may be corrected by
20 sending such agreement to the mortgagor at the
21 earliest time practicable after the mortgagor
22 first becomes 60 days delinquent with respect to
23 payments due under the mortgage. Insurance
24 provided under this subsection may not be ter-
25 minated and penalties for such failure may not



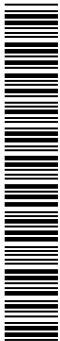
1 be prospectively or retroactively imposed if such
2 failure is corrected in accordance with this sub-
3 paragraph.

4 “(E) PENALTIES FOR FAILURE TO PRO-
5 VIDE AGREEMENT.—The Secretary may estab-
6 lish and impose appropriate penalties for failure
7 of a mortgagee to provide the optional written
8 agreement required under subparagraph (A).

9 “(F) LIMITATION ON LIABILITY OF MORT-
10 GAGEE.—A mortgagee shall not incur any li-
11 ability or penalties for any failure of a housing
12 counseling entity to provide notice under sub-
13 paragraph (C).

14 “(G) NO PRIVATE RIGHT OF ACTION.—
15 This section shall not create any private right
16 of action on behalf of the mortgagor.

17 “(H) DELINQUENCY PERIOD.—For pur-
18 poses of this paragraph, the term ‘delinquency
19 period’ means, with respect to a mortgage, a
20 period that begins upon the mortgagor becom-
21 ing delinquent with respect to payments due
22 under the mortgage and ends upon the first
23 subsequent occurrence of such payments under
24 the mortgage becoming current or the property

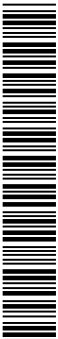


1 subject to the mortgage being foreclosed or oth-
2 erwise disposed of.

3 “(6) INAPPLICABILITY OF DOWNPAYMENT RE-
4 QUIREMENT.—A mortgage insured under this sub-
5 section shall not be subject to paragraph (9) of sub-
6 section (b) or any other requirement to pay on ac-
7 count of the property, in cash or its equivalent, any
8 amount of the cost of acquisition.

9 “(7) PREMIUMS.—In conjunction with the cred-
10 it subsidy estimation calculated each year pursuant
11 to the Federal Credit Reform Act of 1990 (2 U.S.C.
12 661 et seq.), the Secretary shall review the program
13 performance for mortgages insured under this sub-
14 section and make any necessary adjustments, which
15 may include altering mortgage insurance premiums
16 subject to subsection (c)(2), reviewing underwriting
17 policies, and limiting the availability of mortgage in-
18 surance under this subsection, to ensure that the
19 Mutual Mortgage Insurance Fund shall continue to
20 generate a negative credit subsidy.

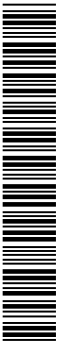
21 “(8) UNDERWRITING.—For a mortgage to be
22 eligible for insurance under this subsection, the
23 mortgagor’s credit and ability to pay the monthly
24 mortgage payments shall have been evaluated using
25 the Federal Housing Administration’s Technology



1 Open To Approved Lenders (TOTAL) Mortgage
2 Scorecard, or a similar standardized credit scoring
3 system approved by the Secretary, and in accordance
4 with procedures established by the Secretary.

5 “(9) APPROVAL OF MORTGAGEES.—To be eligi-
6 ble for insurance under this subsection, a mortgage
7 shall have been made to a mortgagee that meets
8 such criteria as the Secretary shall establish to en-
9 sure that mortgagees meet appropriate standards for
10 participation in the program authorized under this
11 subsection.

12 “(10) DISCLOSURE OF INCREMENTAL COSTS.—
13 For a mortgage to be eligible for insurance under
14 this subsection, the mortgagee shall provide to the
15 mortgagor, at the time of the application for the
16 loan involved in the mortgage, a written disclosure,
17 as the Secretary shall require, that specifies the ef-
18 fective cost to a mortgagor of borrowing the amount
19 by which the maximum amount that could be bor-
20 rowed under a mortgage insured under this sub-
21 section exceeds the maximum amount that could be
22 borrowed under a mortgage insured under sub-
23 section (b), based on average closing costs with re-
24 spect to such amount, as determined by the Sec-

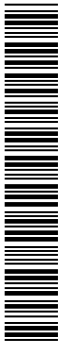


1 retary. Such cost shall be expressed as an annual in-
2 terest rate over the first 5 years of a mortgage.

3 “(11) LOSS MITIGATION.—

4 “(A) IN GENERAL.—Upon the default of
5 any mortgage insured under this subsection, the
6 mortgagee shall engage in loss mitigation ac-
7 tions for the purpose of providing an alternative
8 to foreclosure to the same extent as is required
9 of other mortgages insured under this title pur-
10 suant to the regulations issued under section
11 230(a).

12 “(B) ANNUAL REPORTING.—Not later
13 than 90 days after the end of each fiscal year,
14 the Secretary shall submit a report to the Con-
15 gress that compares the rates of default and
16 foreclosure during such fiscal year for mort-
17 gages insured under this subsection, for single-
18 family mortgages insured under this title (other
19 than under this subsection), and for mortgages
20 for housing purchased with assistance provided
21 under the downpayment assistance initiative
22 under section 271 of the Cranston-Gonzalez
23 National Affordable Housing Act (42 U.S.C.
24 12821).



1 “(12) ADDITIONAL REQUIREMENTS.—The Sec-
2 retary may establish any additional requirements for
3 mortgage insurance under this subsection as may be
4 necessary or appropriate.

5 “(13) LIMITATION.—The aggregate number of
6 mortgages insured under this section in any fiscal
7 year may not exceed 30 percent of the aggregate
8 number of mortgages and loans insured by the Sec-
9 retary under this title during the preceding fiscal
10 year.

11 “(14) PROGRAM SUSPENSION.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graph (C), the authority under paragraph (1) to
14 insure mortgages shall be suspended if at any
15 time the claim rate described in subparagraph
16 (B) exceeds 3.5 percent. A suspension under
17 this subparagraph shall remain in effect until
18 such time as such claim rate is 3.5 percent or
19 less.

20 “(B) FHA TOTAL SINGLE-FAMILY ANNUAL
21 CLAIM RATE.—The claim rate described in this
22 subparagraph, for any particular time, is the
23 ratio of the number of claims during the 12
24 months preceding such time on mortgages on 1-
25 to 4-family residences insured pursuant to this



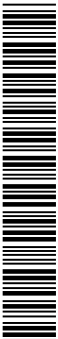
1 title to the number of mortgages on such resi-
2 dences having such insurance in-force at that
3 time.

4 “(C) APPLICABILITY.—A suspension under
5 subparagraph (A) shall not preclude the Sec-
6 retary from endorsing or insuring any mortgage
7 that was duly executed before the date of such
8 suspension.

9 “(15) SUNSET.—No mortgage may be insured
10 under this section after September 30, 2011, except
11 that the Secretary may endorse or insure any mort-
12 gage that was duly executed before such date.

13 “(16) GAO REPORTS.—The Comptroller Gen-
14 eral of the United States shall submit a report to
15 the Congress not later than 2 years after the date
16 of the enactment of this subsection, and annually
17 thereafter, regarding the performance of mortgages
18 insured under this subsection.

19 “(17) IMPLEMENTATION.—The Secretary may
20 implement this subsection on an interim basis by
21 issuing an interim rule, except that the Secretary
22 shall solicit public comments upon publication of
23 such interim rule and shall issue a final rule imple-
24 menting this subsection after consideration of the
25 comments submitted. ”.



1 (b) MORTGAGE INSURANCE PREMIUMS.—The second
2 sentence of subparagraph (A) of section 203(c)(2) of the
3 National Housing Act (12 U.S.C. 1709(c)(2)(A)) is
4 amended by striking “In” and inserting “Except with re-
5 spect to a mortgage insured under subsection (l), in”.

